

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

| | | |
|-----------------------------|---|---------------------|
| MICHAEL MCCARRELL #0485849, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:15-CV-00144 |
| |) | |
| CCA (MDCDF), |) | SENIOR JUDGE HAYNES |
| |) | |
| Defendant. |) | |

ORDER

Plaintiff, Michael McCarrell, an inmate currently housed in the Metro-Davidson County Detention Facility in Nashville, Tennessee, has filed this *pro se* civil rights action under 42 U.S.C. § 1983 (ECF No. 1), along with an application to proceed *in forma pauperis*. (ECF No. 2.) Because it is apparent that Plaintiff has insufficient funds in his trust account to pay the entire filing fee in advance, Plaintiff's application to proceed as a pauper (ECF No. 2) is **GRANTED**.

Pursuant to 28 U.S.C. §§ 1915(b) and 1914(a), Plaintiff is nonetheless assessed the \$350.00 civil filing fee. The Warden of the Metro-Davidson County Detention Facility, as custodian of Plaintiff's trust account, is **DIRECTED** to submit promptly to the Clerk of Court the greater of: (a) 20% of the average monthly deposits to Plaintiff's credit at the prison; or (b) 20% of the average monthly balance to Plaintiff's credit for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1). Thereafter, the custodian shall submit 20% of Plaintiff's preceding monthly income (or income credited to Plaintiff for the preceding month), but only when Plaintiff's monthly income exceeds \$10.00. 28 U.S.C. § 1915(b)(2). Payments shall continue until the filing fee has been paid in full to the Clerk of Court. 28 U.S.C. § 1915(b)(3).

The Clerk of Court **MUST** send a copy of this Order to the Metro-Davidson County Detention Facility to ensure compliance with that portion of 28 U.S.C. § 1915 pertaining to the payment of the filing fee. If Plaintiff is transferred from his present place of confinement, the Warden must ensure that a copy of this order follows Plaintiff to his new place of confinement, for continued compliance herewith. All payments made pursuant to this Order must be submitted to the Clerk of Court for the United States District Court for the Middle District of Tennessee, 801 Broadway, Nashville, TN 37203.

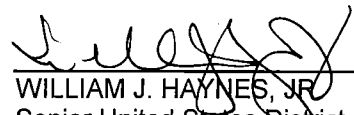
Pursuant to 28 U.S.C. § 1915(e)(2), the Court is required to conduct an initial review of any complaint filed in forma pauperis and to dismiss the complaint if it is facially frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief against a defendant who is immune from such relief.

For the reasons set forth in the accompanying Memorandum, Plaintiff's action will be **DISMISSED without prejudice** for failure to state a claim upon which relief can be granted. 28 U.S.C. §§ 1915(e)(2) and 1915A. Any appeal of this Order would not be in good faith as required by 28 U.S.C. § 1915(a)(3).

Entry of this Order shall constitute the Judgment in this action.

It is so **ORDERED**.

ENTERED this 26th day of February, 2015.



WILLIAM J. HAYNES, JR.
Senior United States District Judge